Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

Claims 1 - 16 (canceled)

Claim 17 (new): A railroad rail breaking apparatus for being mounted on an arm of a vehicle, and comprising:

(a) a first member having a first jaw on a first end thereof and a mounting attachment on a second end remote from the first jaw for permitting the rail breaking apparatus to be mounted onto the vehicle arm, the first jaw including a first supporting surface for supporting a wearing flange of the rail;

(b) a second member pivotally mounted for movement about a pivot axis, the second member including a second jaw including a second supporting surface for supporting the wearing flange of the rail and defining with the first jaw an opening therebetween, the length of the opening between the first and second jaws being less than the height of the rail whereby the wearing flange extends into the opening between the first and second jaws and is held in a stationary position therein at an inner terminal portion of the first and second jaws adjacent the pivot axis;

(c) the second jaw being movable about the pivot axis relative to the first jaw between a wear flange receiving position in which the first supporting surface of the first jaw and the second supporting surface of the second jaw diverge away from the first pivot axis and a wear flange breaking position in which the first and second surfaces diverge toward the first pivot axis, the wear flange being held in a stationary position in the wear flange breaking position by cooperation of the first and second members;

(d) power means mounted for cooperation with the first and second members for moving the first and second jaws relative to each other; and

(e) wherein as the first and second jaws move from the wear flange receiving position to the wear flange breaking position, the stationary wear flange of the rail located between the first and second jaws is broken by the movement of the second jaw against the wear flange relative to the first jaw by the power means, causing simultaneous breaking of a rail web and base flange of the rail integrally-formed with the wearing flange whereby a length of the rail is broken and severed from a greater-length rail.

Claim 18 (new): A railroad rail breaking apparatus according to claim 17, wherein said power means comprises a piston and cylinder assembly.

Claim 19 (new): A railroad rail breaking apparatus according to 18, wherein the piston and cylinder assembly is powered by a vehicle to which the apparatus is attached in use.

Claim 20 (new): A railroad rail breaking apparatus according to claim 17, wherein the article engaging surface includes a blade for imparting a fracture line to the wearing flange.

Claim 21 (new): A railroad rail breaking apparatus according to 17, wherein the length of the first jaw and the second jaw is at least the height of the wearing flange of the rail being broken.

Claim 22 (new): A railroad rail breaking apparatus according to claim 17, wherein said first jaw includes a second article-supporting surface forward of said article-supporting surface positioned at an oblique angle thereto for guiding the wearing flange between the first jaw and the second jaw.

Claim 23 (new): A railroad rail breaking apparatus according to 17, wherein the mounting attachment includes an attachment pivot mounting having an axis of rotation perpendicular to the axis of rotation of the first pivot axis for permitting rotation of the apparatus about an axis perpendicular to the axis of rotation of the first pivot axis.

Claim 24 (new): A railroad rail breaking apparatus according to claim 17 in combination with a vehicle having an articulating arm to which the apparatus is attached.

Claim 25 (new): A railroad rail breaking apparatus according to claim 24, wherein the axis of rotation of the attachment pivot mounting is aligned with the axis of rotation of the perpendicular first pivot axis of the second member for maintaining the first and second jaws in a stationary position relative to the article as the apparatus is pivoted about the axis of rotation of the attachment pivot.

Claim 26 (new): A method of breaking a railroad rail into shorter lengths, comprising the steps of:

(a) providing:

(i) a first member having a first jaw on a first end thereof and a mounting attachment on a second end remote from the first jaw for permitting the rail breaking apparatus to be mounted onto the vehicle arm, the first jaw including a first supporting surface for supporting a wearing flange of the rail;

(ii) a second member pivotally mounted for movement about a pivot axis, the second member including a second jaw including a second supporting surface for supporting the wearing flange of the rail;

(iii) the second jaw being movable about the pivot axis relative to the first jaw between a wear flange receiving position in which the first supporting surface of the first jaw and the second supporting surface of the second jaw diverge away from the first pivot axis and a wear flange breaking position in which the first and second surfaces diverge toward the first pivot axis, the wear flange being held in a stationary position in the wear flange breaking position by cooperation of the first and second members; and

(iv) power means mounted for cooperation with the first and second members for moving the first and second jaws relative to each other;

(b) positioning the first and second jaws in the wear flange receiving position;

(c) orienting the apparatus with respect to the wearing flange of the rail so that the wearing flange extends into the wear flange receiving position between the first and second jaws and is held in a stationary position therein at an inner terminal portion of the first and second jaws adjacent the pivot axis;

(d) moving the first and second jaws from the wear flange receiving position into the article breaking position and thereby breaking the wear flange and causing simultaneous breaking of a rail web and rail base flange of the rail integrally-formed with the wearing flange;

(e) repeating steps (b) through (d).

Claim 27 (new): A method according to claim 26, wherein the rail is positioned in situ on a railway bed and the method includes the step of breaking the rail while the rail remains in situ.

Claim 28 (new): A method according to claim 26, wherein the rail is positioned in situ on a railway bed, and the method includes the steps of mounting the apparatus on a railway truck; positioning the truck on a railway adjacent the rail to be broken, and moving the truck along the railway as the adjacent rail is broken into lengths.

Claim 29 (new): A method according to claim 26, wherein the rail is positioned in situ on a railway bed, and the method includes the steps of mounting the apparatus on a railway truck; positioning the truck on the railway rail to be broken, and moving the truck along the railway as the rail is broken into lengths upstream from the position of the truck.